

AMENDED IN ASSEMBLY FEBRUARY 22, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1768**

**Introduced by Assembly Member Steinberg**  
**(Coauthors: Assembly Members Kuehl, Longville, and**  
**Wildman)**

*(Coauthor: Senator Rainey)*

January 19, 2000

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An act to amend Sections 26720.9, 26721, 26721.1, 26722, 26725, 26726, 26728, 26730, 26731, 26734, 26736, 26738, 26742, 26743, 26746, 26746.1, and 26750 of the Government Code, relating to sheriff's fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1768, as amended, Steinberg. Sheriff's fees.

Existing law prescribes fees for serving, executing, and processing required court notices, writs, orders, and other services provided by sheriffs and marshalls.

This bill would increase these fees as specified and, on and after January 1, 2003, require the amount of each fee to be annually adjusted by the percentage change in the Bureau of Labor Statistics Consumer Price Index. The bill would delete the per diem compensation for a keeper of property under a writ of attachment, execution, possession, or sale.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 26720.9 of the Government  
2 Code is amended to read:

3 26720.9. Notwithstanding any other provision of law,  
4 the amounts set forth in Sections 26721, 26721.1, 26725,  
5 26728, 26734, 26736, 26738, 26742, 26743, and 26750 shall be  
6 increased to thirty dollars (\$30) on January 1, 2001, and  
7 to thirty-two dollars (\$32) on January 1, 2002. On and after  
8 January 1, 2003, this amount shall be annually adjusted by  
9 the percentage change in the Bureau of Labor Statistics  
10 Consumer Price Index.

11 SEC. 2. Section 26721 of the Government Code is  
12 amended to read:

13 26721. Except as provided in this article, the fee for  
14 serving or executing any process or notice required by  
15 law or the litigants to be served shall be the amount  
16 described in Section 26720.9, and there shall be no  
17 additional fee for substitute service when substitute  
18 service is authorized.

19 However, no fee shall be charged for serving an  
20 emergency protective order, protective order, or  
21 restraining order issued pursuant to Division 10 of the  
22 Family Code (the Domestic Violence Prevention Act) on  
23 a respondent who is in custody.

24 In any case where property has been levied upon and,  
25 pursuant to the levy, a copy of the writ of execution and  
26 a notice of levy are required by statute to be served either  
27 personally or by mail upon the judgment debtor or other  
28 person, no fee shall be charged for that service.

29 SEC. 3. Section 26721.1 of the Government Code is  
30 amended to read:

31 26721.1. In an action for unlawful detainer, the fee for  
32 service of a summons, complaint, and prejudgment claim  
33 of right to possession pursuant to Section 415.46 of the  
34 Code of Civil Procedure shall be the amount described in  
35 Section 26720.9 for all occupants not named in the  
36 summons. The fee is not refundable.

37 SEC. 4. Section 26722 of the Government Code is  
38 amended to read:

1 26722. The fee for serving, executing, or processing  
2 any writ or order where the levying officer is required to  
3 take immediate possession of the property levied upon is  
4 eighty-five dollars (\$85). On and after January 1, 2003,  
5 this amount shall be adjusted annually by the percentage  
6 change in the Bureau of Labor Statistics Consumer Price  
7 Index.

8 SEC. 5. Section 26725 of the Government Code is  
9 amended to read:

10 26725. The fee for serving, executing, or processing a  
11 writ of attachment, writ of execution, writ of sale, or order  
12 on real estate, as to the initial service or posting of a  
13 continuous unbroken parcel or tract, and the fee for  
14 serving a record owner other than the defendant shall be  
15 the amount described in Section 26720.9.

16 SEC. 6. Section 26726 of the Government Code is  
17 amended to read:

18 26726. (a) The fee for keeping and caring for  
19 property under a writ of attachment, execution,  
20 possession, or sale shall be one hundred ten dollars (\$110)  
21 when necessarily employed for any eight-hour period or  
22 any part thereof. If an additional keeper or keepers are  
23 required during these periods, the fee for the additional  
24 keeper or keepers shall be the same as fixed, but, in no  
25 event shall any one keeper receive more than one  
26 hundred eighty-five dollars (\$185) during any 24-hour  
27 period when so employed.

28 (b) In addition to the fees provided by Section 26721,  
29 the fee for maintaining custody of property under levy by  
30 the use of a keeper is thirty dollars (\$30) for each day  
31 custody is maintained after the first day.

32 (c) Notwithstanding any other fee charged, a keeper  
33 shall receive thirty dollars (\$30) when, pursuant to  
34 Section 26738, a levying officer prepares a not-found  
35 return.

36 (d) On and after January 1, 2003, the fees described in  
37 this section shall be adjusted annually by the percentage  
38 change in the Bureau of Labor Statistics Consumer Price  
39 Index.

1 SEC. 7. Section 26728 of the Government Code is  
2 amended to read:

3 26728. The fee for preparing and posting the initial  
4 notice of personal property sale under a writ of  
5 attachment, execution, or sale or order of court shall be  
6 the amount described in Section 26720.9.

7 SEC. 8. Section 26730 of the Government Code is  
8 amended to read:

9 26730. The fee for conducting or postponing the sale  
10 of real or personal property as required by law or the  
11 litigant is eighty-five dollars (\$85). On and after January  
12 1, 2003, this amount shall be adjusted annually by the  
13 percentage change in the Bureau of Labor Statistics  
14 Consumer Price Index.

15 SEC. 9. *Section 26731 of the Government Code is*  
16 *amended to read:*

17 26731. ~~Three~~ Five dollars (~~\$3~~) (\$5) of any fee  
18 collected by the sheriff's civil division or marshal under  
19 Sections 26721, 26722, 26725, 26726, 26728, 26730, 26733.5,  
20 26734, 26736, 26738, 26742, 26743, 26744, and 26750 of the  
21 Government Code shall be deposited in a special fund in  
22 the county treasury. A separate accounting of funds  
23 deposited shall be maintained for each depositor, and  
24 funds deposited shall be for the exclusive use of the  
25 sheriff's civil division or marshal.

26 Ninety-five percent of the moneys in the special fund  
27 shall be expended to supplement the costs of the  
28 depositor for the implementation, maintenance, and  
29 purchase of auxiliary equipment and furnishings for  
30 automated systems or other nonautomated operational  
31 equipment and furnishings deemed necessary by the  
32 sheriff's civil division or marshal. Five percent of the  
33 moneys in the special fund shall be used to supplement  
34 the expenses of the sheriff's civil division or marshal in  
35 administering the funds.

36 SEC. 10. Section 26734 of the Government Code is  
37 amended to read:

38 26734. The fee for making a levy on personal property  
39 already in possession of the officer who is holding it under

1 attachment in the same action shall be the amount  
2 described in Section 26720.9.

3 ~~SEC. 10.~~

4 *SEC. 11.* Section 26736 of the Government Code is  
5 amended to read:

6 26736. The fee for cancellation of the service or  
7 execution of any process or notice prior to its completion  
8 shall be the amount described in Section 26720.9. The fee  
9 provided by this section shall not be charged where a  
10 charge is made pursuant to any other section of this article  
11 in attempting to serve or execute the process or notice.

12 ~~SEC. 11.~~

13 *SEC. 12.* Section 26738 of the Government Code is  
14 amended to read:

15 26738. The fee for making a not found return on a  
16 summons, affidavit and order, order for appearance,  
17 subpoena, writ of attachment, writ of execution, writ of  
18 possession, order for delivery of personal property, or  
19 other process or notice required to be served, certifying  
20 that the person or property cannot be found at the  
21 address specified shall be the amount described in Section  
22 26720.9.

23 ~~SEC. 12.~~

24 *SEC. 13.* Section 26742 of the Government Code is  
25 amended to read:

26 26742. The fee for executing and delivering any other  
27 instrument shall be the amount described in Section  
28 26720.9.

29 ~~SEC. 13.~~

30 *SEC. 14.* Section 26743 of the Government Code is  
31 amended to read:

32 26743. The fee for subpoenaing a witness, including a  
33 copy of the subpoena and any affidavit required to be  
34 served therewith, shall be the amount described in  
35 Section 26720.9.

36 ~~SEC. 14.~~

37 *SEC. 15.* Section 26746 of the Government Code is  
38 amended to read:

39 26746. In addition to any other fees required by law,  
40 a processing fee of eight dollars (\$8) shall be assessed for

1 each disbursement of money collected under a writ of  
2 attachment, execution, possession, or sale, but excluding  
3 any action by the district attorney's office for the  
4 establishment or enforcement of a child support  
5 obligation. The fee shall be collected from the judgment  
6 debtor in addition to, and in the same manner as, the  
7 moneys collected under the writ. All proceeds of this fee  
8 shall be deposited in a special fund in the county treasury.  
9 A separate accounting of funds deposited shall be  
10 maintained for each depositor, and funds deposited shall  
11 be for the exclusive use of the depositor. On and after  
12 January 1, 2003, this amount shall be adjusted annually by  
13 the percentage change in the Bureau of Labor Statistics  
14 Consumer Price Index.

15 Seventy percent of the moneys in the special fund shall  
16 be expended to supplement the county's cost for vehicle  
17 fleet replacement and equipment for the sheriff and the  
18 marshal. Thirty percent of the moneys in the special fund  
19 shall be expended to supplement the county's cost of  
20 vehicle and equipment maintenance for the sheriff and  
21 the marshal, and for the county's expenses in  
22 administering the funds.

23 No fee shall be charged where the only disbursement  
24 is the return of the judgment creditor's deposit for costs.

25 ~~SEC. 15.—~~

26 *SEC. 16.* Section 26746.1 of the Government Code is  
27 amended to read:

28 26746.1. A fifteen dollar (\$15) fee shall be assessed by  
29 the sheriff or marshal for certification of correction on  
30 each citation that requires inspection for proof of  
31 correction of any violation pursuant to Section 40616 of  
32 the Vehicle Code. On and after January 1, 2003, this  
33 amount shall be adjusted annually by the percentage  
34 change in the Bureau of Labor Statistics Consumer Price  
35 Index.

36 All proceeds of the fee shall be deposited in a special  
37 fund in the county treasury. A separate accounting of  
38 funds deposited shall be maintained for each depositor,  
39 and funds deposited shall be for the exclusive use of the  
40 sheriff's civil division or marshal.

1 Ninety-five percent of the moneys in the special fund  
2 shall be expended to supplement the costs of the  
3 depositor for the implementation, maintenance, and  
4 purchase of auxiliary equipment and furnishings for  
5 automated systems or other nonautomated operational  
6 equipment and furnishings deemed necessary by the  
7 sheriff's civil division or marshal. Five percent of the  
8 moneys in the special fund shall be used to supplement  
9 the expenses of the sheriff's civil division or marshal in  
10 administering the funds.

11 ~~SEC. 16.~~

12 *SEC. 17.* Section 26750 of the Government Code is  
13 amended to read:

14 26750. (a) The fee for serving an earnings  
15 withholding order under the Wage Garnishment Law,  
16 Chapter 5 (commencing with Section 706.010) of  
17 Division 2 of Title 9 of Part 2 of the Code of Civil  
18 Procedure, including but not limited to the costs of  
19 postage or traveling, and for performing all other duties  
20 of the levying officer under that law with respect to the  
21 levy shall be the amount described in Section 26720.9.

22 (b) Except as provided in Section 26746, no additional  
23 fees, costs, or expenses may be charged by the levying  
24 officer for performing the duties under the Wage  
25 Garnishment Law, Chapter 5 (commencing with Section  
26 706.010) of Division 2 of Title 9 of Part 2 of the Code of  
27 Civil Procedure.